

REMARKS

Claims 12, 13, 15, 16 and 18-24 are pending. Claims 12, 18, 20 and 21 have been amended. Support for the amendments in claim 12 can be found at, for example, page 6, lines 7-9 of the specification. Support for the amendments in claim 18 can be found throughout the specification, for example, at page 7, lines 20-23 of the specification. Support for the amendments in claims 20 and 21 can be found at, for example, page 2, line 34 to page 3, line 32 of the specification.

Applicants thank the Examiner for indicating that claim 15 contains allowable subject matter.

The Examiner's remarks in the last Office Action are addressed below. It is believed that the claims and all dependent claims, taken in light of the remarks made herein, meet all criteria for patentability.

CLAIM OBJECTIONS

The Examiner has objected to claims 20 and 21 "as being of improper dependent form for failing to further limit the subject matter of a previous claim." See Office Action at page 2. Applicants respectfully traverse this objection. Claims 20 and 21 have been amended to depend from claim 18. The phrase "nonhydrolyzable functional group being a group with a cosmetic effect" can include a group with an antibacterial effect or a group with an antifungal effect. See claims 20 and 21. Therefore, claims 20 and 21 are of proper dependent form and further limits the phrase "nonhydrolyzable functional group being a group with a cosmetic effect." See claim 18.

With respect to claim 18, Applicants have amended claim 18 to recite the phrase "R₅ represents a nonhydrolyzable functional group with cosmetic activity that is a coloring, UV-stabilizing, antibacterial, antifungal or reducing effect" to clarify the claim.

Applicants respectfully request the withdrawal of the objections.

CLAIM REJECTIONS

Rejection of claims under 35 U.S.C. § 102(e)/103(a)

The Examiner has rejected claims 12, 13, 16 and 19-22 "under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35. U.S.C. § 103(a) as obvious over" U.S. Patent No. 6,113,815 to Elfersy et al. ("Elfersy"). See Office Action at pages 2-3. Claims 13, 16, 19 and 22 depend from independent claim 12. Claims 20 and 21 have been amended to depend from claim 18 which is not subject to this rejection. Accordingly, claims 20 and 21 are patentable over Elfersy.

Applicants have discovered a cosmetic composition including in a cosmetically acceptable medium, at least 0.02% by weight, relative to the total weight of the composition, of at least one substantially unpolymerized, water-soluble, organosilicon compound, the organosilicon compound including a silane having one silicon atom having the formula in which: R' represents a halogen or an OR₁ group, R'' represents a halogen or an OR₂ group, R₁ and R₂ represent, independently of each other, hydrogen C₁-C₁₂ alkyl, C₆-C₁₄ aryl, (C₁-C₈ alkyl)(C₆-C₁₄ aryl) or (C₆-C₁₄ aryl)(C₁-C₈ alkyl) group, R₃ is a nonhydrolyzable functional group with a cosmetic effect that is a coloring, or reducing effect and R₄ is a nonhydrolyzable functional group with a solubilizing function or a siloxane having two or three silicon atoms and having at least two hydroxyl or hydrolyzable groups and at least two nonhydrolyzable functional groups per molecule, at least one of the nonhydrolyzable functional groups being a group with a cosmetic effect that is a coloring, UV-stabilizing, antibacterial, antifungal or reducing effect, and at least one of the other nonhydrolyzable functional groups being a group with a solubilizing function. See claim 12.

Elfersy discloses that "compounds having at least one ether group and hydroxyl or ester functionality, stabilize aqueous organosilane solutions." See col. 3, lines 6-9 of Elfersy. Elfersy further discloses a "the product formed from mixing an organosilane of the formula R_nSiX_{4-n} where n is an integer of from 0 to 3, preferably 0 to 2; each R is, independently, a nonhydrolyzable organic group; and each X is, independently, a hydrolyzable group ..., with an ether, where the ether is of the formula R—O—R, where R is, independently an organic group and where the ether either has either a hydroxy functionality or a carboxylic ester functionality."

See col. 3, lines 22-30 of Elfersy. Elfersy also discloses aqueous compositions comprising said product. See col. 3, lines 31-33 of Elfersy. Elfersy discloses methods of antimicrobially treating a substrate. See Abstract of Elfersy. Elfersy however, teaches substrates different from hair as well as applications other than cosmetics. See col. 12, lines 60-64 and col. 22, lines 10-47 of Elfersy.

Elfersy does not teach or suggest organosilanes that include nonhydrolyzable functional group with a cosmetic effect that is a coloring, or reducing effect. See claim 12. Elfersy also does not teach or suggest organosilanes that include a siloxane having two or three silicon atoms. See claim 12. Elfersy further does not suggest or provide any motivation to make cosmetic composition that includes organosilanes described in claim 12.

As such, claim 12 and dependent claims 13, 16, 19 and 22 are patentable over Elfersy.

Applicants respectfully request reconsideration and withdrawal of this rejection.

Rejection of claims under 35 U.S.C. § 103(a)

The Examiner has rejected claims 22-24 under 35 U.S.C. § 103(a) as being unpatentable over Elfersy. See Office Action at page 4. Claims 22 and 23 depend from independent claim 12. Claim 24 is an independent claim.

The Examiner contends that Elfersy teaches “the use of [] silanes [] as a UV protectant, for example, in a sun tan lotion.” See Office Action at page 4. The Examiner alleges that a skilled artisan “would realize, UV protection in hair treatment products is also desirable, as exposure to UV rays from the sun can be detrimental to hair” and that “the skilled artisan would have realized the effectiveness thereof in hair treating products.” Id.

Applicants have discovered a cosmetic composition including, in a cosmetically acceptable medium, at least 0.02% by weight, relative to the total weight of the composition, of at least one substantially unpolymerized, water-soluble, organosilicon compound, the organosilicon compound being a silane having one silicon atom having the formula (I). See claim 12. Applicants have discovered a method for treating hair including applying to hair an effective amount of a cosmetic composition including, in a cosmetically acceptable medium, at

least 0.02% by weight, relative to the total weight of the composition, of at least one substantially unpolymerized, water-soluble, organosilicon compound, the organosilicon compound being a silane having one silicon atom having the formula (I). See claim 24.

Elfersy does not teach or suggest organosilanes that include nonhydrolyzable functional group with a cosmetic effect that is a coloring, or reducing effect. See claim 12. Elfersy also does not teach or suggest organosilanes that include a siloxane having two or three silicon atoms. See claim 12. Elfersy further does not suggest or provide any motivation to make cosmetic composition that includes organosilanes described in claim 12. There is also no suggestion or motivation in Elfersy to include hair product ingredients in the cosmetic composition of claim 12.

Elfersy does not teach or suggest a method of treating hair that includes applying to hair an effect amount of a cosmetic composition described in claim 24. There is no suggestion or motivation in Elfersy to use organosilanes on hair in order to obtain a highly remanent cosmetic effect chosen from coloring, UV-protective and reducing effects. See page 2, line 34 to page 3, line 5 of the specification. Applicants submit that “[t]he reference[] must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention.” See MPEP 2141.

Accordingly, claims 22 and 23 which are dependent on claim 12, are patentable over Elfersy. Applicants respectfully request the withdrawal of the rejection.

CONCLUSION

For the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the pending rejections. Applicants believe that the claims now pending are in condition for allowance.

A check for 2-month extension fee of \$450 is included. Should any further fees be required by the present Reply, the Commissioner is hereby authorized to charge Deposit Account 19-4293.

If, for any reason, a telephonic conference with the Applicants would be helpful in expediting prosecution of the instant application, the Examiner is invited to call Applicants' Attorney at the telephone number provided below.

Respectfully submitted,

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